

Appl. No. 10/760,561
Amdt. Dated October 24, 2005
Reply to Office Action dated June 24, 2005

REMARKS

In the Office Action Summary, the U.S. Patent Examiner has indicated that Claim Nos. 1 – 24 are pending in the application. Of these claims, Claim Nos. 11 – 24 have been withdrawn from consideration (without traverse) and Claim Nos. 1 – 10 currently stand rejected. The U.S. Patent Examiner has made no statement regarding either the Specification or the Drawings filed on January 20, 2004.

On Page No. 2 in Paragraph No. 1 of the Office Action, the U.S. Patent Examiner has more specifically indicated that the application contains claims directed to the following patentably distinct species of the claimed invention: (1) Claim Nos. 1 – 10, directed to the embodiments of Figure Nos. 1 – 3; and (2) Claim Nos. 11 – 24, directed to the embodiments of Figure Nos. 4 – 9. Applicant elects the Group I claims, namely, Claim Nos. 1 – 10 for examination on their merits. Currently, originally filed Claim Nos. 1 – 10 and newly drafted Claim Nos. 25 – 34 may be considered readable on the Group I species. Accordingly, pursuant to the U.S. Patent Examiner's request, as found in Paragraph No. 2 of the Office Action, Applicant affirms the provisional election made by Mr. Christopher J. Scott on June 21, 2005 during a Telephonic Interview.

In Paragraph No. 3 of the Office Action, the U.S. Patent Examiner has provided Applicant with the basis for his rejections of record. In this regard, Applicant takes note that the U.S. Patent Examiner has rejected Claim Nos. 1 – 10 based upon both 35 U.S.C. §§ 102 and 103, specifically, 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a). In other words, (in Paragraph No. 4), the U.S. Patent Examiner has rejected Claim No. 1 – 10 under 35 U.S.C. § 102(b) as being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as rendered obvious over U.S. Patent No. 3,351,206, which issued to Wennerstrom

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(WENNERSTROM). The U.S. Patent Examiner goes on to state his reasons for rejecting the noted claims, as follows:

“Wennerstrom discloses a gutter screen having a roof engaging edge and a gutter engaging edge, made from longitudinally and latitudinally intersecting ribs, with a termination trim in the form of a first breaker edge (38) extending upwardly from the screen and a lower second breaker edge (43) for engaging the gutter rim connected by an edge receiving fold having U-shaped (37) and parallel (34, 36) regions for engaging the screen, as claimed. While the edges are not planar, it is submitted that the claims do not require them to be planar, and the 180° back curves are obviously “substantially vertical;” as well as being located in the same vertical plane and therefore obviously “substantially coplanar,” as claimed.

With respect to claims 2 – 5 and 8 – 10, it is submitted that the dimensions are obvious matters of construction, depending on the size of the gutter (and in claim 2, on the size of what is desired to be filtered), and therefore fail to patentably distinguish over Wennerstrom. With respect to claims 5 and 10, note that the lower breaker edge of Wennerstrom appears to be approximately twice the size of the upper edge.”

ANALYSIS OF REJECTION(S) OF CLAIM NOS. 1 – 10

ISSUE(S):

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The issues presented by the U.S. Patent Examiner are (1) whether Claim Nos. 1 – 10 may properly be considered anticipated by WENNERSTROM as construed in light of 35 U.S.C. § 102(b), and (2) whether Claim Nos. 1 – 10 may properly be rendered obvious in view of WENNERSTROM as construed in light of 35 U.S.C. § 103(a).

RULES:

A person shall be entitled to a patent unless ... the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States. [35 U.S.C. § 102(b)].

In *W.L. Gore & Associates v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984), the Federal Circuit Court stated that “[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W.L. Gore & Associates v. Garlock, Inc.*, 220 USPQ at 313 (citing *Soundsciber Corp. v. United States*, 360 F.2d 954, 960, 148 USPQ 298, 301 (Ct. Cl.), adopted, 149 USPQ 640 (Ct. Cl. 1966)). It is not enough, however, that the prior art reference disclose all the claimed elements in isolation. Rather, as further stated by the Federal Circuit Court, “[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim*.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)(emphasis added). The Federal Circuit Court has indicated that “[i]n deciding the issue of anticipation, the trier of fact must

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identify the elements of the claims, determine their meaning in light of the specification and prosecution history, and identify corresponding elements disclosed in the allegedly anticipating reference.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ at 485.

Further, “[u]nder 35 U.S.C. 102, anticipation requires that ... the prior art reference must be enabling, thus placing the allegedly disclosed matter in the possession of the public.” *Akzo N.V. v. U.S. Int’l Trade Comm’n*, 808 F.2d 1471, 1 USPQ 2D 1241, 1245 (Fed. Cir. 1986)(citing *In re Brown*, 329 F.2d 1006, 1011, 141 USPQ 245, 249 (C.C.P.A. 1964)). The Federal Circuit Court has added that the anticipation determination is viewed from one of ordinary skill in the art: “There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention.” *Scripps Clinic & Research Found. v. Genentech Inc.*, 927 F.2d 1565, 18 USPQ 2d 1001, 1010 (Fed. Cir. 1991).

By combining the elements of the various decisions, a *prima facie* case of anticipation is established when a U.S. Patent Examiner provides:

- 1) a single reference
- 2) that teaches or enables
- 3) each of the claimed elements (arranged as in the claim)
- 4) expressly or inherently
- 5) as interpreted by one of ordinary skill in the art.

An applicant who is able to prove that any one of these elements is not present will effectively prevent the *prima facie* case of anticipation from being established.

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A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the difference between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made [35 U.S.C. § 103(a)].

U.S. Patent Examiners carry the responsibility of making sure that the standard of patentability enunciated by the Supreme Court and by the Congress is applied in each and every case. [Manual of Patent Examining Procedure (M.P.E.P.), § 2141]. Further, United States Patent and Trademark Office (Office) policy has consistently been to follow the three prong test enunciated in *Graham v. John Deere Co.* 383 U.S. 1, 148 USPQ 459 (1966) (*Graham*) in the consideration and determination of obviousness under 35 U.S.C. 103. U.S. Patent Examiners are thus behooved to apply the test for patentability under 35 U.S.C. 103 as set forth in *Graham* when considering rejections of patent claims based on 35 U.S.C. 103. Furthermore, in determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. [M.P.E.P. § 2141.02; *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983)].

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or

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in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (M.P.E.P. § 2413).

If a U.S. Patent Examiner does not demonstrate all elements of the *prima facie* case, the U.S. Patent Examiner's opinion of obviousness is deficient and the applicant is deserving of a patent. The Federal Circuit has endorsed this view in *In re Oetiker*, stating, "if the examination at the initial stage does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of the patent." *In re Oetiker*, 977 F.2d 1443, 24 USPQ 2d 1443-1444 (Fed. Cir. 1992).

ANALYSIS:

Applicant has now inspected WENNERSTROM in its entirety and in view of the foregoing rules perceives a number of shortcomings in the U.S. Patent Examiner's argument(s) that Claim Nos. 1 – 10 should be rejected in view of WENNERSTROM. It will be recalled that the U.S. Patent Examiner has stated that "Wennerstrom discloses a gutter screen having a roof engaging edge and a gutter engaging edge, made from longitudinally and latitudinally intersecting ribs, with a termination trim in the form of a first breaker edge (38) extending upwardly from the screen and a lower second breaker edge (43) for engaging the gutter rim connected by an edge receiving fold having U-shaped (37) and parallel (34, 36) regions for engaging the screen, as claimed." Applicant takes note of the curl 38 of the upper limb 36 of the WENNERSTROM termination trim that functions, in

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part, to form a screen-receiving jaw 39. Applicant takes further note of integral bight 43 connecting the lower limb 42 to the central limb 34 and functions in cooperative association with curl 38 to completely form screen-receiving jaw 39. It would appear from an inspection of the noted structures of WENNERSTROM that the portions of curl 38 and bight 43 immediately adjacent screen 41 are convex (relative to screen 41) for funneling or guiding screen 41 into a slot formed intermediate upper limb 36 and central limb 34 as terminated by bight 37.

Applicant supposes certain portions of curl 38 may function to provide certain stop structure for matter colliding therewith as translating across screen 41, and thus the curl 38 of WENNERSTROM may comprise a certain breaker portion (i.e. the lower portion of curl 38) for directing moving matter (such as water) in an inferior direction relative to the upper limb 36. Notably, a good example of this feature is that portion of curl 38 (as a functional component of jaw 39) that functions to guide screen 41 toward bight 37. Presumably, however, moving matter (such as water) contacting the upper portion of the curl 38 would similarly be directed in a superior direction relative to the upper limb 36. In other words, being convexly curved relative to colliding matter, the curl 38 directs moving matter along the convex surface away from the center of the radius of curvature. It is noted that the portion of the curl 38 defined by a tangent plane extended vertically through the curl 38 would function to define a certain vertical stop structure of the upper limb 36 or curl 38, but the vertical stop structure would be limited to a single line as extending along the length of the trim and hardly could be construed as a vertical stop structure in an of itself.

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The question then becomes whether the curl 38 of WENNERSTROM functions as an equivalent to the select tension-breaking breaker edge of the present application as presented in Claim Nos. 1 and 6 both of which tension-breaking breaker edges are designed (and claimed as such) for minimizing water runoff and debris collection adjacent a gutter. In this regard, it is noted that moving water contacting the upper portion of curl 38 would be directed in a superior direction relative to the upper limb 36 and thus would tend to run off the gutter system. In this regard, it is noted that the curl 38 may well function to enhance water runoff adjacent an outfitted gutter (as opposed to minimizing water runoff adjacent an outfitted gutter). Further, moving debris contacting the lower portion of curl 38 would tend to become lodged intermediate the funneling or guiding lower portion of the curl 38 and the screen 41. It is further noted that the curl 38 may well function to enhance debris collection adjacent an outfitted gutter. Therefore, it would appear that the curl 38 of the WENNERSTROM termination trim does not function as an equivalent to the select tension-breaking breaker edge(s) of the present application as presented in currently rejected Claim Nos. 1 and 6 both of which breaker edges are designed (and claimed as such) for minimizing water runoff and debris collection adjacent a gutter.

Moreover, Applicant wishes to specifically point out the select tension-breaking breaker edges of Claim Nos. 1 and 6 are each selected from the group consisting of the first and second breaker edges. In other words, the tension-breaking breaker edge (as claimed in each independent claim) is selected from one of two alternative vertically oriented stop structures. The select tension-breaking breaker edge may be defined by either the first breaker edge or the second breaker edge and conversely, the select

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positioning breaker edge may be defined by that which the select tension-breaking breaker edge is not.

In still other words, if the user selects the first breaker edge as the select tension-breaking breaker edge, then the select positioning breaker edge would necessarily be defined by the second breaker edge. Nothing in the WENNERSTROM disclosure would appear to suggest that the curl 38 and the bight 43 are interchangeable. Indeed, it would appear that the bight 43 functions to connect the central limb 34 to the lower limb 42; and the central and lower limbs 34 and 42, respectively, would appear to function as receptors of upper flange element 31 and lower flange element 32, respectively.

It is doubtful whether the curl 38 of the upper limb 36 would function in the same manner (or meet with a reasonable expectation of success) as the cooperative association of central limb 34 and lower limb 42 as integrally connected by bight 43 and as further comprising element 46 to provide an open jaw 47. It is noted that the structure comprising the lower limb 42 (i.e. the elements 46 and 47) together provide a detent latch 49 adapted to engage the step 33 on the flange elements 31 and 32 to prevent unintended removal of the structure. (See generally Column No. 2, Line Nos. 45 – 49).

The reversibility or the upendability of the first and second breaker edges to form either (1) a relatively short tension-breaking breaker edge and a relatively long positioning breaker edge or (2) a relatively long tension-breaking breaker edge and a relatively short positioning breaker edge would appear to have been either ignored or overlooked by the U.S. Patent Examiner. In other words, the feature of selecting the tension-breaking breaker edge and the positioning breaker edge from the first and second breaker edges appears to have been overlooked by the U.S. Patent Examiner and thus it is

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unclear from the record whether WENNERSTROM anticipates or renders obvious Claim Nos. 1 and/or 6 as viewed or construable by 35 U.S.C. §§ 102(b) and 103(a).

The curl 38 and the bight 43 would not appear to be interchangeable as the user may elect. The first and second breaker edges of the present application (as defined in Claim Nos. 1 and 6) are interchangeable as the user may elect. When the U.S. Patent Examiner states that WENNERSTROM teaches a first breaker edge (38) extending upwardly from the screen and a lower second breaker edge for engaging the gutter rim, this arrangement need not be the case as claimed by the Applicant in Claim Nos. 1 and 6. Reconsideration is kindly requested.

With further regard to the rejection of independent Claim Nos. 1 and 6, the U.S. Patent Examiner states, as follows: "While the edges are not planar, it is submitted that the claims do not require them to be planar, and that the 180° back curves are obviously "substantially vertical;" as well as being located in the same vertical plane and therefore obviously "substantially co-planar," as claimed." Applicant is confused as to the suggestion that "180° back curves" may be said to be substantially vertical. A so-called 180° back curve would necessarily comprise at least two horizontal portions and one vertical portion (for example, if the curve back were curved back from an initial horizontal plane) or would necessarily comprise at least two vertical portions and one horizontal portion (for example, if the curve back were curved back from an initial vertical plane). A structure comprising a 180° curve back then comprises both horizontal and vertical components or dimensions and thus may hardly be defined by substantially comprising one or the other dimension.

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Further, it is unclear from the U.S. Patent Examiner's statement how the curl 38 and the bight 43 may be said to be substantially co-planar. In the first instance the curl 38 and the bight 43 each comprise a certain respective radius of curvature. A plane extending through any portion of a first curve may also extend through a portion of a second curve (i.e. the curves extending through the plane) and may also be tangent to both curves. However, the curves in their entirety may not both be in the same plane unless the curves are embedded in the plane. However, the curl 38 and the bight 43 of the WENNERSTROM disclosure are not planar, embeddable curves (as for example, a transverse cross-section of each might be). Rather, the curl 38 and bight 43 each have three-dimensional structure and thus are not substantially-coplanar as the U.S. Patent Examiner would seem to suggest. Clarification is kindly requested.

With respect to rejected dependent Claim Nos. 2 – 5 and 8 – 10, the U.S. Patent Examiner states, as follows: "...it is submitted that the dimensions are obvious matters of construction, depending on the size of the gutter (and in claim 2, on the size of what is desired to be filtered), and therefore fail to patentably distinguish over Wennerstrom. With respect to claims 5 and 10, note that the lower breaker edge of Wennerstrom appears to be approximately twice the size of the upper edge."

Applicant takes initial note that no statement has been made with regard to the rejection of dependent Claim No. 7 and thus Applicant has no reasonable basis for rejection to which he can respond. In an effort to be fully responsive, however, Applicant

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supposes that the U.S. Patent Examiner might base his rejections upon certain lines of thought as countered in the arguments that follow.

Claim No. 7 is reproduced in its entirety, hereinafter.

"7. The gutter screen termination trim of claim 6 wherein the gutter screen termination trim is for use in combination with the gutter rim portion, the gutter rim portion comprising an inner rim edge and an outer rim edge, the select positioning breaker edge for positioned placement in snug adjacency to the inner rim edge, the U-shaped edge for fixed placement in superior adjacency to the outer rim edge."

Applicant concedes that the bight 43 of WENNERSTROM is positionable in snug adjacency to the inner rim edge of the WENNERSTROM gutter structure as may be located intermediate upper flange element 31 and lower flange element 32. It will be recalled, however, that the select positioning breaker edge of the present invention may also be defined by the first breaker edge. In this regard, it is doubtful whether curl 38 (i.e. the U.S. Patent Examiner's "first breaker edge") may snugly receive the inner rim edge (as heretofore defined). Further, the U-shaped edge of the WENNERSTROM disclosure (as described by bight 37) would not appear to be coplanar with or lie in superior adjacency to the outer rim edge of the WENNERSTROM gutter, but may be said to be positionable inwardly adjacent to the outer rim edge of the WENNERSTROM gutter as positioned by detent latch 49 of the lower limb 42. The Applicant has claimed the subject matter he

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regards as his invention in Claim No. 7 purposefully. Applicant has intended that the edges (i.e. the outer rim edge and the U-shaped edge) be defined by termini lying in substantially the same plane as a means to minimize debris collection adjacent the roof border region (as well as enhance the aesthetic appearance of the outfitted gutter system). From an inspection of Figure Nos. 1 and 6 of the Wennerstrom disclosure, it would appear that the bight 37 and the outer rim edge of the Wennerstrom gutter are not coplanar, the length(s) of upper limb 36 and central limb 42 being of lesser magnitude than the length of inturned flange 31. This line of argument, however, represents Applicants best guess as to the type of reasoning the U.S. Patent Examiner may have put forth. Currently, the record is silent as to what grounds the U.S. Patent Examiner may have stood upon to reject Claim No. 7 and thus further information is kindly requested.

Applicant further notes that the U.S. Patent Examiner has summarily discounted the dimensions as claimed by Applicant in dependent Claim Nos. 2 – 5 and 8 – 10. In this regard, the Applicant might simply redirect the U.S. Patent Examiner back to the lengthy specification supporting the currently pending and rejected dependent claims. It will be recalled that the U.S. Patent Examiner has stated that “the dimensions are obvious matters of construction, depending on the size of the gutter (and in claim 2, on the size of what is desired to be filtered).

Beginning at Line No. 12 on the first page of this application, the Applicant describes in great length for the reader certain criticality in the preferred dimensions. Indeed, throughout the specification (and even the title itself), reference is made to water tension and its ability to prevent water from filtering through filter screens given various

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characteristics of the gutter screen itself as well as various properties of the water (for example, velocity and quantity) traveling across the gutter screen. Indeed, ribs having certain spacing will function to prevent certain matter from entering the gutter and otherwise further clogging the water route. However, the gutter screen mesh as specifically claimed in Claim No. 2 is a preferred mesh or screen for enabling a water film to form thereupon. In other words, a water film is to be desired in Claim No. 2 and the tension-breaking breaker edge (as included in Claim No. 2) is designed to break the water tension inherently present in the water film and direct water through the claimed spacing. Thus, the dimensions as defined in Claim No. 2 are not merely recited for preventing certain bulky matter from passing into the gutter, but to provide a water film-enabling lattice (with water film-breaking terminal stop structure). If the U.S. Patent Examiner is of the opinion that such a limiting feature should specifically be included in the claim language, Applicant will be happy to add the same in response to a further request to do so.

With specific regard to the dimensions recited in Claim Nos. 3 – 5 and 8 – 10, Applicant arrived at the limiting dimensions not only through trial and error, but through research and development. It will be recalled that one of the primary policy considerations supporting the entire patent system is to encourage would-be inventors to contribute to the knowledge of the various arts by disclosing in a U.S. Letters Patent (for the reading public) how to make and use an invention. In return for the inventors' efforts, Congress will grant to the inventor a limited monopoly right to prevent others from immediately benefiting from the inventors' efforts.

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Applicant concedes that gutter screen termination trim structures are not the equivalent of certain rocket science or miracle cures for common ailments. However, the utilitarian magnitude of the invention is of little consequence so long as a modicum of utility is present. [See generally 35 U.S.C. § 101]. The U.S. Patent Examiner may be of the opinion that makers of gutter screen systems are ignorant as to matters of construction and thus Applicant may have randomly picked the claimed dimensions. In this regard, the U.S. Patent Examiner may be of the further opinion that Applicant is merely citing certain workable parameters in the claim language, which may have lead any examining patent examiner to conclude that such parameters are "obvious" matters of construction.

The cited dimensions were purposeful, not accidental or obvious, as will be understood from a re-inspection of the specification. Applicant is of the opinion that the U.S. Patent Examiner would be hard pressed to cite a single document detailing a gutter system construction in which certain screening systems for the gutter comprise certain breaking means for breaking water tension of a water film formed upon the screen surface. What dimension(s) facilitate the best water-tension breaking characteristics, yet allow certain bulky matter to translate past the water-tension breaking breaker edge? The dimensions here cited in the patent claims of record.

Moreover, the dimensions do not depend on the size of the gutter, as the U.S. Patent Examiner states (...dimensions are obvious matters of construction, depending on the size of the gutter...). The dimensions depend, rather, on the position of the trim adjacent a gutter system (i.e. whether at corner junctions or at main gutter expanses) or on the amount of rainwater running off a roof over the termination trim.

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With respect to the lower breaker edge of WENNERSTROM being twice the size of the upper edge, Applicant begs to differ. It will be recalled that the first and second breaker edges of Claim Nos. 1 and 6 are interchangeable. Every dimension recited in the depending claims must represent interchangeable dimensions. Presumably, if the WENNERSTROM termination trim were upendable or reversible (as the U.S. Patent Examiner would seem to suggest), that water film otherwise colliding with bight 43 would tend to displace the termination trim (or improved structure 10) relative to the gutter screen, there being no stop structure for holding detent latch 49 and the trim in position adjacent the gutter screen. In other words, the force of moving water colliding with bight 43 of twice the size of curl 38 would need to withstand greater force, there being a larger surface area against which the water film collide. The greater force(s) could conceivably overcome the static frictional forces otherwise holding the trim in place if the trim were to be upended as the U.S. Patent Examiner would seem to suggest.

It is further interesting to note that the gutter screen of the WENNERSTROM patent disclosure does not appear to show a grid-like mesh that would function to enable a water film to form thereupon (the spacing simply being too large in magnitude). Water, traveling across the screen 41 of WENNERSTROM would thus appear not to need any water-tension breaking edge so as to pass through the grid-like screen. The size of the apertures in the WENNERSTROM screen 41 themselves function as water directing conduits allowing water to pass directly therethrough without necessarily being broken by the bottom portion of curl 38.

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CONCLUSIONS:

Perhaps the most problematic facet of the U.S. Patent Examiner's prima facie case of anticipation and/or obviousness is whether the prior art reference teaches or suggests all the claim limitations. Applicant wishes to reiterate that the claim language in this application was purposeful, not accidental. WENNERSTROM simply does not teach a selectively upendable or interchangeable termination trim as independent Claim Nos. 1 and 6 define. All of the other rejections could fail on this point alone, but the WENNERSTROM screen does not teach a water-film enabling screen, nor does the WENNERSTROM disclosure specify any dimensions of water tension breakers, probably because curl 38 and bight 43 are not designed to break water tension, but are designed to facilitate the insertion of screen 41 into the gap intermediate upper limb 36 and central limb 34 as terminated by bight 37. Other notable points of distinction are represented hereinafter, as noted by the seasoned gutter screen manufacturer Applicant:

1. The WENNERSTROM trim is designed to be attached only to gutters presently known as K-Style gutters comprising a horizontally extending stiffening flange formed by folding the gutter metal upon itself'. The U-shaped channel of the present invention may be readily attached over virtually every house rain gutter.
2. The WENNERSTROM trim is designed only to quickly attach screen to K-Style gutters without the use of fasteners such as screws or rivets and permit quick release of that screen (Ref #2). No other purpose for the WENNERSTROM trim

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is presented (such as water tension-breaking functions and limiting features of the present invention).

3. Neither the WENNERSTROM trim, nor the WENNERSTROM disclosure in general could perform adequately to be utilized in real world scenarios, for the reasons stated hereinafter:

- a. The actual shape of the gutter rim [32 and/or 33 (Ref #3)], to which the WENNERSTROM trim is attached varies from one style of the gutter forming machine to the other style. So the same WENNERSTROM trim may not fit all K-Style gutters, even if they look the same
- b. When a gutter is actually installed, the gutter edge is often not as even as it ideally could be, so the WENNERSTROM trim will not necessarily be prevented from falling off. This fact is also described by Winger (Ref #4). The "real world" is not as perfect as it needs to be for the WENNERSTROM trim.
- c. The WENNERSTROM trim, which fits the gutter rim, will not fit the same gutter at its corner, where extremely popular prefabricated gutter corners are typically added. Added prefabricated gutter corners create irregular extra thick gutter rim

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[32 and/or 33 (Ref #3)], which will not allow the WENNERSTROM trim to simply snap on.

- d. The WENNERSTROM trim can be installed only when the K-Style gutter is attached to the fascia with old ill-performing spikes [27 and 28 (Ref #3)], or other means. The most popular gutter hanger presently used to attach over 90% of gutters is hooked at the gutter rim [32 and/or 33 (Ref #3)]. This means that the most commonly used gutter hanger(s) would otherwise interfere with the WENNERSTROM trim. It also means that the WENNERSTROM disclosure in general cannot be utilized on most present gutter systems.
- e. The main purpose of the WENNERSTROM patent would appear to disclose a quickly installable and/or removable gutter screen. In this regard, it will be noted that the WENNERSTROM patent drawings show no screen attachment at the roof side. In such case the actual screen has to be thick, heavy and with large magnitude apertures to withstand wind blows.
- f. When a screen is thick and with large magnitude apertures as above described, and when such a screen is inserted into the WENNERSTROM trim it creates open gap between vertical screen wires. This means that foreign matter such as dirt will pack

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there, and when once the screen is removed from the WENNERSTROM trim, the accumulated dirt will not otherwise allow unimpeded reinsertion of the same in many gutter areas.

g. When a gutter screen comprises large magnitude apertures, that screen “does not work” as far as gutter protection, so gutter has to be cleaned under screen very often, and with such large magnitude apertures, there is hardly a water tension issue. The WENNERSTROM did not even have a water tension issue at the time, because he was working with a big-hole screen, where clogging of screen, and gutter cleaning under screen was the main issue to deal with.

h. If the WENNERSTROM trim would be used to attach the “actually working” screen such as presented in this patent disclosure, the screen would have to be attached at the roof side. Such attachment would lead to screen sagging and possible removal of the WENNERSTROM trim during heavy loads such as snow.

The gutter termination trim of the present application performs, as follows:

a. It holds and attaches gutter screen/mesh to virtually every house rain gutter, not only to the K-Style gutter.

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- b. The presently used most popular gutter hangers do not interfere with the gutter termination trim of the present invention.
- c. The dimensions of the gutter termination trim of the present invention (i.e. the raised edges (breakers)) were purposefully recited after trial and error development by Applicant as a means to break water surface tension.
- d. There are two raised edges upper edge and the lower edge, so the gutter screen termination trim is reversible. (The U.S. Patent Examiner is invited to inspect the IG2 installation instruction Ref # 5 and Ref # 6 posted on Applicant's website www.InvisiGuard.net. It will be noted that certain direct links to IG2 Installation instruction(s) are provided:
http://www.invisiguard.net/gsr/how_to_IG2.pdf and to original IG installation instruction: http://www.invisiguard.net/gsr/how_to_IG.pdf).
The specifically defined small edge is used to break water tension in all gutters except small areas with high volume of running water, where "U-Channel" has to be reversed, and specifically defined tall edge is used to break water tension in such areas.
- e. The other than above described edges highs could be used in other very specific uncommon gutter areas. In such cases the raised edge can be either trimmed down or that edge can be extended by inserting "L" shape piece of aluminum into the "U-Channel", so the specific edge height can be used at a very specific situation.

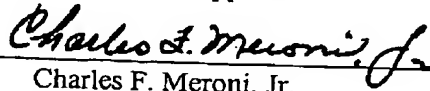
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- f. The specific role of "U-Channel" is described in our website IG Technical Specification page (second bullet Ref #7)

http://www.invisiguard.net/gsr/ig_specs.asp 'IG's patented mesh quickly breaks up streams of water, directing most of it into the gutter. The remaining water film—which in some cases may travel further along the mesh surface—is stopped and driven into the gutter by our specially designed patent-pending "U-Channel".'

It is believed that this patent application is now in condition for allowance, and such action is kindly requested. If, after a review of this Amendment, issues remain which may be resolved by a telephone interview, the U.S. Patent Examiner is cordially invited to call the Applicants' undersigned attorney. If attempts to reach the undersigned attorney are not successful, please be advised that Christopher J. Scott, Registration No. 48,647, may also be contacted with regard to this matter. Mr. Scott has been in regular communication with the undersigned regarding the Office Action and this Amendment. Further, Mr. Scott is listed under our Firm's Customer Number with the United States Patent and Trademark Office, namely, Customer Number 30114, and thus may be deemed a proper representative of Applicants.

Respectfully submitted,
Attorney for Applicant



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